

REMARK

Applicant respectfully requests reconsideration of this application as amended. Claims 1-39 remain in the application. Claims 1, 6, 10, 15 and 35 have been amended. The amendments made to the claims are not intended to be narrowing, but are believed to be inherent. For example, receiving packets on a circuit is performed by a network element and circuits are provisioned for network elements. Claims 40-63 have been added. No claims have been canceled.

Rejections under 35 U.S.C. § 102(e)

Applicant's claims 1-4, 6-8, 10-13, 15, 17, 18, 20-23, 25-33 and 35-39 have been rejected under 102(e) as being anticipated over Hebel, U.S. Patent 6,396,810. Applicant does not admit that Hebel is prior art and reserves the right to swear behind the reference at a later date. Nonetheless, Applicant respectfully submits that the invention as claimed in claims 1-4, 6-8, 10-13, 15, 17, 18, 20-23, 25-33 and 35-39 is not described or suggested by Hebel.

Hebel discloses analyzing and managing communication paths in a telecommunications network via a network management system (NMS). The telecommunications network is composed of several network elements connected by communications links, with communication paths configured on top of the communication links. Each communication path is composed of one or more circuits (Hebel, Col. 8, lines 50-53). The NMS analyzes the network and generates a graphical map of the communication paths, circuits and network elements (Hebel, Col. 2, lines 12-15). Furthermore, the NMS provisions the communication paths either by (a) responding to a user assigning available (i.e. already provisioned) circuits to a communication path through the graphical display of the network (Hebel, Col. 9, lines 55-58) or (b) automatically assigning available circuits to a user selected communication path (Hebel, Col. 9, lines 42-45 and Col. 9, line 65 – Col. 10, line 1). In either case, provisioning of the communication path occurs in response to a user action and involves assigning available circuits. Although Hebel states in one sentence “If circuits 22 couple to remotely configurable equipment, provisioning component 60 may provision circuits 22 by communicating provisioning information to the remotely configurable equipment”

(Hebel, Col. 12, lines 54-57),¹ Hebel is primarily directed to provisioning communication paths not circuits and provides no detail regarding the provisioning of circuits. Thus, Hebel describes an NMS that manages a network composed of several network elements, provisions communications paths composed of one or more circuits between network elements within the network, and does this provisioning in response to user requests.

However, Hebel does not teach or suggest “provisioning the circuit in the network element”, on which circuit a packet has already been received and responsive to receipt of that packet on that circuit (“in response to receiving the packet on the circuit”). See claims 1 and 35, as amended.

Furthermore, the Examiner states that Hebel’s “circuits ... may be configured as protocols that support communication of information, thus, indicating that circuits are initially listening to be provisioned”. This is not the case. In Hebel, a circuit configured to support communications means that the circuit is provisioned. There is no disclosure in Hebel that describes or suggests that a communicating circuit is initially listening to be provisioned or is configured as a listening circuit. In contrast, claim 6, as amended, requires “configuring a set of circuit as listening circuits in a network element ... provisioning the one of the set of listening circuits in response to said receiving the packet on one of the set of listening circuits”. See also claim 25.

Claim 10, as amended, states “listening for a packet on a set of configured circuits in a network element ... signaling a routine that the packet has been detected on the one of the set of configured circuits; retrieving a set of parameters for the one of the set of configured circuits from a database; creating an empty circuit structure for the one of the set of configured circuits; populating the empty circuit structure with the set of parameters, the populated empty circuit structure becoming a provisioned circuit structure; and associating a set of subsequent packets received on the one of the set of listening circuits with the provisioned circuit structure”.

Claim 15, as amended, requires “associating a set of configured circuits with the listening circuit structure; receiving a packet on one circuit of the set of configured

¹ This is the only reference in Hebel to provisioning circuits. There is no further description in Hebel as to how the NMS provisions the circuit in the network element. In contrast, Hebel discloses provisioning communication paths by assigning available circuits to the selected communication path. Therefore, Applicant respectfully submits that Hebel is primarily directed to provisioning communication paths, not circuits.

circuits; provisioning the one circuit in response to said receiving the packet on the one circuit".

Claims 20 and 30, as amended, claim, "computer to provision one circuit of the set of circuits in response to receiving a packet on the one circuit".

The above quoted limitations are not described or suggested by Hebel. For at least these reasons, Applicant respectfully submits that the independent claims are allowable. The Applicant respectfully submits that the dependant claims are allowable for at least the reason that they are dependent on an allowable independent claim.

Rejections under 35 U.S.C. § 103(a)

Applicant's claims 5, 9, 14, 19, 24, 34 and 38 have been rejected under 103(a) as being obvious over Hebel in view of Radhakrishnan, U.S. Patent 6,049,526. Applicant respectfully submits that claims 5, 9, 14, 19, 24, 34 and 38 are allowable for at least the reason that they depend from independent claims 1, 6, 10, 15, 20, 30 and 35, respectfully.

Furthermore, Applicant's claim 16 has been rejected under 103(a) as being obvious over Hebel in view of Moles, U.S. Patent 6,466,779. However, Moles qualifies as prior art only under 102(e) because it issued after Applicant's filing date. Applicant does not admit that Moles is prior art and reserves the right to swear behind the reference at a later date. Applicant respectfully submits that claim 16 is allowable for at least the reason that it depends from independent claim 15.

New Claims

New claims 40-63 have been added. Applicant respectfully submits that the new claims are in condition for allowance. In particular, new independent claim 40 is an apparatus claim corresponding to allowable machine readable medium claim 1 and method claim 35. Claims 41-44 are allowable because they depend from claim 40. Claims 45-63 are not taught or suggested by the prior art.

Information Disclosure Statement

Applicant is submitting herewith a PTO-1449 form and associated references. Applicant wishes to draw the Examiner's attention to certain of these references. In particular, Applicant submits manuals for releases 2.3 and 3.1 of the Patent Owner's

products to indicate the added features. Applicant respectfully submits that Release 2.3 (Access Operating System (AOS) Configuration Guide Release 2.3) qualifies as prior art published more than one year before the filing date of this application, whereas Release 3.1 (release notes for Redback AOS Release 3.1.4; Access Operating System (AOS) Configuration Guide Release 3.1; and Access Operating System (AOS) Command Reference) does not and the description of the claimed invention contained therein is attributable to the inventors of this application.

Page 15 of the release notes for Redback AOS Release 3.1.4 shows “On-demand circuit creation” as a new AAA feature. There is no such feature listed in Redback AOS Release 2.3.

Conclusion

Applicant respectfully submits that the rejections have been overcome by the amendments and remarks, and that the Claims as amended are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the Claims as amended be allowed.

Invitation for a telephone interview

The Examiner is invited to call the undersigned at 408-720-8300 if there remains any issue with allowance of this case.

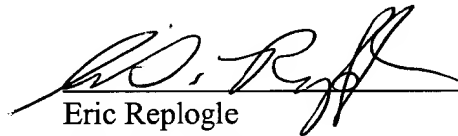
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 10/29, 2009


Eric Replogle
Reg. No. 52,161

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025-1026
(408) 720-8300